

08C2741
Off

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS **F I L E D**
EASTERN DIVISION

JUL 29 2008
JUL 29 2008
MB

JAMES E. MCROY

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

v.

CASE NO. 08C2741

MICHAEL SHEAHAN, ET AL.

JUDGE R. CASTILLO

NOTICE OF APPEAL

THIS NOTICE IS HEREBY GIVEN THAT JAMES E. MCROY,
PLAINTIFF THE ABOVE NAMED HEREBY APPEALS TO THE
UNITED STATES COURT OF APPEALS FOR THE SEVENTH
CIRCUIT FROM THE FINAL JUDGMENT WHICH WAS ENTERED
IN THIS ACTION ON JUNE 23, 2008.

RESPECTFULLY SUBMITTED,
James E. McRoy
PRO SE.

SUBSCRIBED AND AFFIRMED TO ME
ON THIS 22nd DAY OF July
2008.

Carmella K. Richardson
NOTARY PUBLIC

JAMES E. MCROY
ID#20020032025
DIVISION 4, UNIT 3D
P.O. BOX 089002
CHICAGO, IL 60608

OFFICIAL SEAL
CARMELLA K RICHARDSON
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES: 04/21/10

SEVENTH CIRCUIT COURT OF APPEALS INFORMATION SHEET

Include the names of all plaintiffs (petitioners) and defendants (respondents) who are parties to the appeal. Use a separate sheet if needed.

NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION DOCKET NUMBER: 08 cv2741

PLAINTIFF (Petitioner)

v.

DEFENDANT (Respondent)

McRoy/appellant	Sheahan/appellee
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(Use separate sheet for additional counsel)

PETITIONER'S COUNSEL		RESPONDENT'S COUNSEL	
Name	James E. McRoy	Name	
Firm	pro-se #2002-0032025	Firm	
Address	Cook Co. Jail P.O. Box 089002 Chgo.II. 60608	Address	
Phone		Phone	

Other Information

District Judge	Castillo	Date Filed in District Court	5/14/08
Court Reporter	K. Fennell X-5569	Date of Judgment	6/24/08
Nature of Suit Code	555	Date of Notice of Appeal	7/29/08

COUNSEL: Appointed Retained Pro Se

FEE STATUS: Paid Due IFP
 IFP Pending U.S. Waived

Has Docketing Statement been filed with the District Court Clerk's Office? Yes No

If State/Federal Habeas Corpus (28 USC 2254/28 USC 2255), was Certificate of Appealability:

Granted Denied Pending

If Certificate of Appealability was granted or denied, date of order: _____

If defendant is in federal custody, please provide U.S. Marshall number (USM#): _____

IMPORTANT: THIS FORM IS TO ACCOMPANY THE SHORT RECORD SENT TO THE CLERK OF THE U.S. COURT OF APPEALS PURSUANT TO CIRCUIT RULE 3(A). Rev 04/01

FILED
Jul 29 2008
JUL 29 2008 MB

08C2741
Off

MICHAEL W. DOBBINS
CLERK U.S. DISTRICT COURT

IN THE UNITED STATES COURTS OF APPEALS FOR THE
SEVENTH CIRCUIT

JAMES E. MCROY > APPEAL FROM THE U.S. DISTRICT COURT
V. NO. > FOR THE SEVENTH DISTRICT OF ILLINOIS
MICHAEL F. SHEAHAN, ET AL. > CASE NO. 08C2741, JUDGE R. CASTILLO

CIRCUIT RULE 3(c) DOCKETING STATEMENT

NOW COMES APPELLANT, JAMES E. MCROY, PRO SE, MOVES
THIS HONORABLE COURT WITH ENTRE OF AN APPELLANT
JURISDICTIONAL STATEMENT AND IN SUPPORT APPELLANT
STATES THE FOLLOWING:

THE APPELLANT JURISDICTIONAL STATEMENT: THE DISTRICT
COURT HAD SUBJECT MATTER JURISDICTION UNDER 28 U.S.C.
SECTION 1331(A) AND 28 U.S.C. SECTION 1337, BECAUSE THE
COMPLAINT RAISES A FEDERAL QUESTION WHETHER THE DEFENDANTS
VIOLATED THE PLAINTIFF'S RIGHTS UNDER THE 14TH AMENDMENT
DUE PROCESS CLAUSE OF THE UNITED STATES CONSTITUTION.

THE COURT HAS APPELLANT JURISDICTION UNDER 28 U.S.C.
SECTION 1291, BECAUSE THE GRANTED OR JUDGMENT WAS ENTERED
IN FAVOR OF THE DEFENDANT'S IS A FINAL AND APPEAL-
ABLE ORDER OR JUDGMENT. THE ORDER WAS ENTERED ON
JUNE 23, 2008, AND THE PLAINTIFF'S NOTICE OF APPEAL WAS
MAILED ON JULY 16, 2008.

WHEREFORE, APPELLANT PRAYS THAT THIS HONORABLE COURT
ACCEPTS THIS DOCKETING STATEMENT WHICH COMPLIES WITH

THE PROVISIONS OF CIRCUIT RULE 28(A).

RESPECTFULLY SUBMITTED,
James E. McFoy
PRO SE

JAMES E. McFOY
ID # 20020032025
DIVISION 9, UNIT 3D
P.O. BOX 589002
CHICAGO, IL 60608

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Ruben Castillo	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	08 C 2741	DATE	June 23, 2008
CASE TITLE	McRoy (#2002-0032025) v. Sheahan, et al.		

DOCKET ENTRY TEXT:

Plaintiff's motion to reconsider [10] is construed to be a motion to alter or amend judgment pursuant to Fed.R.Civ.P. 59(e) and is denied.

■ [For further details see text below.]

Docketing to mail notices.
Mail A0 450

STATEMENT

Plaintiff, James McRoy, seeks to have this Court reconsider its judgment order dismissing Plaintiff's complaint for failure to state a claim. Judgment was entered on June 4, 2008. Plaintiff dated his motion June 11, 2008, and the Clerk of Court received Plaintiff's motion on June 16, 2008. Plaintiff's motion, which was filed within 10 days of this Court's dismissal of this case on an issue of law, is construed as a motion to alter or amend the judgment under Fed. R. Civ. P. 59(e). *See Obriecht v. Raemisch*, 517 F.3d 489, 493-94 (7th Cir. 2008). The "mailbox rule" has been extended to motions to alter or amend judgment. *See Edwards v. United States*, 266 F.3d 756, 758 (7th Cir. 2002). It appears that Plaintiff delivered his motion to prison\jail officials for mailing within ten business days of the entry of judgment, thus making it a timely Rule 59(e) motion.

Relief under Rule 59(e) is available only if the plaintiff can demonstrate a manifest error of law or present newly discovered evidence. *Obriecht*, at 494; *Sigsworth v. City of Aurora*, 487 F.3d 506, 511-12 (7th Cir.2007); *Cosgrove v. Bartolotta*, 150 F.3d 729, 732 (7th Cir. 1998). Rule 59(e) "is not appropriately used to advance arguments or theories that could and should have been made before the district court rendered a judgment . . . or to present evidence that was available earlier." *LB Credit Corp. v. Resolution Trust Corp.*, 49 F.3d 1263, 1267 (7th Cir. 1995) (citations omitted); *see also Moro v. Shell Oil Co.*, 91 F.3d 872, 876 (7th Cir. 1996). "The rule essentially enables a district court to correct its own errors, sparing the parties and the appellate courts the burden of unnecessary appellate proceedings." *Russell v. Delco Remy Div. of Gen. Motors Corp.*, 51 F.3d 746, 749 (7th Cir. 1995). Whether to grant or deny a Rule 59 (e) motion "is entrusted to the sound judgment of the district court." *Matter of Prince*, 85 F.3d 314, 324 (7th Cir. 1996).

JJD

STATEMENT

The Court has carefully reviewed Plaintiff's motion. Plaintiff fails to carry this burden. He is essentially arguing with the Court's legal reasoning. However, mere disagreements with a district court's legal reasoning are properly expressed by filing an appeal. *See Parke-Chapley Constr. Co. v. Cherrington*, 865 F.2d 907, 915 (7th Cir. 1989) ("[A]n appeal or motion for a new trial, rather than an FRCP 60(b) motion is the proper avenue to redress mistakes of law committed by the trial judge").

For the foregoing reasons, Plaintiff's motion is denied. If Plaintiff wishes to appeal this dismissal, he may file a notice of appeal with this Court within 30 days of the entry of this order. Rule 4(a)(4), Fed. R. App. P. If he does so, he will be liable for the \$455 appellate filing fee.

United States District Court
Northern District of Illinois
Eastern Division

James E. McRoy

JUDGMENT IN A CIVIL CASE

v.

Case Number: 08 C 2741

Michael F. Sheahan, et al.

- Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury rendered its verdict.
- Decision by Court. This action came before the Court and a decision has been rendered.

IT IS HEREBY ORDERED AND ADJUDGED that judgment is entered in favor of the defendants Michael F. Sheahan, Callie Baird, Chester Plaxico, John Doe I, and Cook County, IL and against plaintiff, James E. McRoy.

This cause of action is dismissed in its entirety. There being no just reason for delay, this is a final and appealable order.

Michael W. Dobbins, Clerk of Court

Date: 6/23/2008

/s/ Ruth O'Shea, Deputy Clerk

APPEAL, BROWN, PC, TERMED

**United States District Court
Northern District of Illinois - CM/ECF LIVE, Ver 3.2.1 (Chicago)
CIVIL DOCKET FOR CASE #: 1:08-cv-02741
Internal Use Only**

McRoy v. Sheahan et al
Assigned to: Honorable Ruben Castillo
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 05/14/2008
Date Terminated: 06/04/2008
Jury Demand: Plaintiff
Nature of Suit: 555 Civil Rights (Prison Condition)
Jurisdiction: Federal Question

Plaintiff

James E. McRoy

represented by **James E. McRoy**
#2002-0032025
Cook County Jail
P.O. Box 089002
Chicago, IL 60608
PRO SE

V.

Defendant

Michael F. Sheahan
Former Sheriff of Cook County,

Defendant

Callie Baird
Former Executive Director,

Defendant

Chester Plaxico
Superintendent,

Defendant

John Doe I
Correctional Officer, Badge Number 7930,

Defendant

Cook County, Illinois

Service List

represented by **Prisoner Correspondence - Internal**

Use Only

Email:

Prison1_ILND@ilnd.uscourts.gov

ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
05/12/2008	1	RECEIVED Complaint and four copies by Plaintiff James E. McRoy (Exhibits). (ar,). (Poor quality original. Paper document on file.) Modified on 5/14/2008 (ar,). (Entered: 05/13/2008)
05/12/2008	2	CIVIL Cover Sheet. (ar,) (Entered: 05/13/2008)
05/12/2008	3	APPLICATON by Plaintiff James E. McRoy for leave to proceed in forma pauperis and financial affidavit (Exhibit). (ar,) (Entered: 05/13/2008)
05/12/2008	4	MOTION by Plaintiff James E. McRoy for appointment of counsel. (ar,) (Entered: 05/13/2008)
05/12/2008	6	POST MARKED envelope for initiating document by James E. McRoy (Document not scanned) (aew,) (Entered: 05/15/2008)
05/14/2008	5	MINUTE entry before Judge Honorable Ruben Castillo: The plaintiff's motion for leave to proceed in forma pauperis 3 is granted. The court authorizes Cook County Jail officials to deduct \$3.60 from the plaintiff's account, and to continue making monthly deductions in accordance with this order. The clerk shall send a copy of this order to Elizabeth Hudson, Supervisor of Inmate Trust Fund Accounts, Cook County Dept. of Corrections Administrative Office, Division V, 2700 S. California, Chicago, IL 60608. However, summonses shall not issue at this time. The plaintiff is ordered to show good cause in writing why the complaint should not be dismissed as untimely. Failure to show cause within thirty days of the date of this order will result in summary dismissal of this case. [For further details see text below.] Mailed notice (ar,) (Entered: 05/15/2008)
05/15/2008		MAILED copy of Judge Castillo's 05/14/08 minute order 5 to Elizabeth Hudson. (ar,) (Entered: 05/15/2008)
05/29/2008	7	MOTION to by Plaintiff James E. McRoy to show cause. (kj,) (Entered: 06/02/2008)
06/04/2008	8	MINUTE entry before the Honorable Ruben Castillo:Plaintiff's Motion to Show Cause 7 is construed as Plaintiff's response to the Courts order directing Plaintiff to show cause why his complaint should not be dismissed as untimely. The Clerk is directed to terminate it as a motion. This action is dismissed pursuant to 28 U.S.C. §1915A(b)(1) for failure to state a claim. This is one of Plaintiffs three allotted dismissals under 28 U.S.C. § 1915(g). Mailed notice (kj,) (Entered: 06/05/2008)
06/09/2008	9	(Court only) INMATE Installment Payment in the amount of \$7.69 paid on 06/09/08, receipt number 4624004057. (ar,) (Entered: 06/10/2008)
06/11/2008	15	(Court only) INMATE Installment Payment in the amount of \$ 8.45 paid on

		06/11/08, receipt number 4624004152. (ar,) (Entered: 07/01/2008)
06/16/2008	10	REQUEST by Plaintiff James E. McRoy for reconsideration to response to the Court's order directing plaintiff to show cause. (ar,). (Poor quality original. Paper document on file.) Modified on 6/19/2008 (ar,). (Entered: 06/19/2008)
06/23/2008	11	MINUTE entry before the Honorable Ruben Castillo: Plaintiffs motion to reconsider 10 is construed to be a motion to alter or amend judgment pursuant to Fed.R.Civ.P. 59(e) and is denied. [For further details see text below.] Mailed notice (ar,) (Entered: 06/24/2008)
06/23/2008	12	ENTERED JUDGMENT. Mailed notice (ar,) (Entered: 06/24/2008)
06/23/2008	13	MOTION by Plaintiff James E. McRoy to alter judgment and/or relief from order. (ar,) (Entered: 06/24/2008)
06/26/2008	14	MINUTE entry before the Honorable Ruben Castillo: Plaintiff's motion to alter or amend judgment 13 is denied as moot. [For further details see text below.] Mailed notice (ar,) (Entered: 06/27/2008)
07/29/2008	16	NOTICE of appeal by James E. McRoy regarding orders 12 , 11 (ifp) (dj,) (Entered: 08/04/2008)
07/29/2008	17	DOCKETING Statement by James E. McRoy regarding notice of appeal 16 (dj,) (Entered: 08/04/2008)
08/04/2008	18	NOTICE of Appeal Due letter sent to counsel of record (dj,) (Entered: 08/04/2008)